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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

GOLDEN WEST HEALTH PLAN, INC.,

Plaintiff and Respondent,

v.

FRANCHISE TAX BOARD OF THE
STATE OF CALIFORNIA,

Defendant and Appellant.

B205246

(Los Angeles County
Super. Ct. No. BC353849)
ORDER MODIFYING OPINION
AND DENYING REHEARING
NO CHANGE IN JUDGMENT

THE COURT:

It is ordered that the opinion filed herein on July 20, 2009, be modified as follows:

1. On page 6, delete from the first full paragraph the words, “However, as stipulated by the parties, the application was filed under the authority of the regulations adopted pursuant to section 1362(f.) Thus whether the taxpayer could have applied at an earlier date, or under different authority, is irrelevant to our conclusion. Moreover,”. . . . After the words “available to it.” please add the following words: “However, the statutory authorization for that relief was not

granted until the 1996 amendment to section 1362(f). Even had there been authority for the regulation,”

Respondent’s petition for rehearing is denied.

WOODS, J.

ZELON, J.